

REMARKS

Reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks is respectfully requested. Entry of this Amendment under Rule 116 is merited as it raises no new issues and requires no further search.

Claims 6-24 are pending in the application. Claim 6 has been amended to overcome the indefiniteness rejection of claims 11-12 depending therefrom. Claim 17 has been amended to overcome the Examiner's indefiniteness rejection. Claims 16 and 18 have been amended to better define the claimed invention. Claims 19-24 have been added to provide Applicants with the scope of protection to which they are believed entitled. No new matter has been introduced through the foregoing amendments.

The finality of the Office Action mailed September 23, 2003 should be withdrawn because, at least, the 35 U.S.C. 103(a) rejection of independent claim 15 is clearly erroneous.

The Examiner rejects independent claim 15 as being obvious over *JP '058* because it has been held that forming a one piece construction, as recited in claim 15, of a prior art multiple piece structure, as disclosed by *JP '058*, is merely a matter of obvious engineering choice. The Examiner is citing *MPEP*, section 2144.04(v)(B) as authority.

The examiner must apply the law consistently to each application after considering all the relevant facts. If the facts in a prior legal decision are sufficiently similar to those in an application under examination, the examiner may use the rationale used by the court. *MPEP*, section 2144 and 2144.04 (emphasis added).

Prior art must be considered in its entirety, including disclosures that teach away from the claims. *MPEP*, section 2141.02. Proposed modification cannot render the prior art unsatisfactory for its intended purpose or change the principle of operation of a reference. *MPEP*, section 2143.01

(emphasis added). The nature of the teaching is highly relevant. A prior art reference that “teaches away” from the claimed invention is a significant factor to be considered in determining obviousness. *MPEP*, section 2145(X)(D)(1) (emphasis added). It is improper to combine references where the references teach away from their combination. *MPEP*, section 2145(X)(D)(2).

First, the Examiner fails to demonstrate how the fact patterns in the specific court decision being relied upon and the instant application are sufficiently similar. Therefore, the Examiner’s reliance on legal precedent for the rationale for modifying *JP ‘058* is improperly formulated and should be at least rephrased.

Second, the Examiner is not deemed to consider all the relevant facts. As pointed out in the Amendment filed June 30, 2003, pages 6-7, *JP ‘058* is not modifiable in the manner proposed by the Examiner because **such a modification would render the reference unsatisfactory for its intended purpose** of allowing the components to be replaced with ease by accommodating the PCB and the transformer in separate cases.

JP ‘058 is directed to an ignitor’s case which is designed to allow customization of the ignitor’s circuit configuration with ease. See Abstract. The reference criticizes prior arrangements with both the PCB and the transformer being contained in a single case. See paragraph [0005] of the translation, especially the first five lines. *JP ‘058* discloses a solution by providing a case that includes two separate cases (FIG. 1), i.e., a box-like case 10 in which a PCB is housed and a transformer case 20 accommodating a transformer. See paragraphs [0007]-[0008] of the translation. The advantages of *JP ‘058* are disclosed in paragraphs [0012] and [0030] of the translation. Thus, integrating the box-like case 10 and transformer case 20 of *JP ‘058* into a single casing would render *JP ‘058* unsatisfactory for its primary intended purpose (easy replacement/switch of parts).

Since the applied reference **strongly teaches away** from the claimed structure by

specifically requiring that the casing be formed of two separate portions, Applicant respectfully submits that a person of ordinary skill in the art would not have been motivated to make the Examiner's proposed modification. *See*, also *Schenck v. Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983) cited in *MPEP*, section 2144.04(v)(B) which illustrates a situation where making integral what has previously been made separately is non-obvious.

For the overwhelming reasons advanced above, Applicants respectfully request that the 35 U.S.C. 103(a) rejection of at least claim 15, and hence the finality of the September 23, 2003 Office Action, be withdrawn.

The 35 U.S.C. 112, *second paragraph* rejection of claims 11-12 and 17-18 is believed overcome in view of the above amendments.

The 35 U.S.C. 103(a) rejection of claims 15-16 is traversed for the reasons advanced above with respect to independent claim 15.

Claim 16 has been amended to further specify that the attaching elements project generally **in the same direction** from an outer surface of the second compartment. In *JP '058*, fastening legs 15, 16 project in opposite directions.

The 35 U.S.C. 103(a) rejection of claims 6-8, 10, 11, 13, 14, 17-18 is believed overcome in view of the above amendments. In particular, amended claim 6 now additionally requires that both teeth project in the same direction **from the same side** of the casing. In *JP '058*, fastening legs 15, 16 project from opposite sides of the casing.

Claims 8-14 are also patentable on their own merits since the applied art of record fails to disclose, teach or suggest the integrated casing of claim 8. Note the above discussion of claim 15.

As to claim 13, the Examiner fails to specify where in the applied references **a conductor on the outer surface** of the second compartment for connecting the electronic high-voltage-pulse

generating circuit to a control of the cooking range might be disclosed or suggested.

Claims 17-19 are patentable for the reasons advanced with respect to both independent claims 6 and 15.

Claims 19-20 are also patentable since the applied art of record fails to disclose, teach or suggest a **tongue positioned between the teeth**, as presently claimed.

Claim 21 is also patentable since the applied art of record fails to disclose, teach or suggest an **L-shaped** tongue, as presently claimed.

New claims 22-24 incorporate the allowable subject matter of original claims 3-5, respectively. Entry and allowance of claims 22-24 are therefore believed appropriate and respectfully requested.

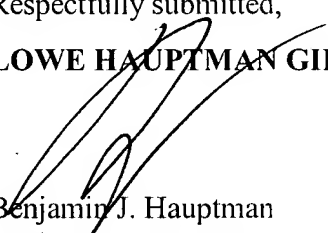
All claims in the present application are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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